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### Remarks

The subject RCE and this Preliminary Amendment address the issues set forth in the Examiner's Final Office Action dated May 19, 2004 as well as incorporating amended claims to more clearly claim that which Applicants consider the invention based on subsequent teleconferences between the Examiner and Applicant's representatives. Specifically, Examiner noted that claims 1-33 are pending in the application and that claims 1-33 stand rejected. By this response claims 1 and 16 are amended; all remaining claims continue unamended and comments addressing the Examiner's positions are provided.

In view of the following discussion, the Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, the Applicants believe that all of these claims are now in allowable form.

### REJECTION OF CLAIMS UNDER 35 U.S.C. §103

#### A. Claims 1-5, 8-16, and 20-33

The Examiner has rejected claims 1-5, 8-16, and 20-33 under 35 U.S.C. §103 as being obvious over Schein et al. (U.S. Patent No. 6,268,501, issued July 17, 2001, hereinafter "Schein") in view of Zdepski et al. (U.S. Patent No. 6,006,256, issued December 21, 1999, hereinafter "Zdepski"). The Applicants respectfully traverse the rejection and case law cited earlier is still of record.

Specifically, the Examiner contends that Schein teaches a program guide for an interactive information distribution system having a video layer and a graphics layer. The Applicants contend that Schein does not disclose layers at all. Rather, Schein discloses a single image having primarily a graphics region and, optionally, an inset video region. The graphics region and video region do not operate as distinct layers; rather, the graphics and video regions are respective portions of a single layer. This was discussed in a teleconference

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between Applicant's representatives Steven M. Hertzberg and Joseph Pagnotta and the Examiner on August 17, 2004. Applicant's representatives thank the Examiner for taking the time to discuss the merits of the case and to otherwise bring prosecution to a satisfactory ending. Accordingly, Applicants have hereinabove amended independent claims 1 and 16 to more distinctly claim that which Applicants consider to be the invention. Specifically, claim 1 now reads:

1. (Amended) A program guide for an interactive information distribution system having provider equipment and subscriber equipment comprising:
  - a video layer of said program guide having at least one user selectable object associated with selectable video content sent from said provider equipment to said subscriber equipment, said video layer sent from said provider equipment to said subscriber equipment; and
  - a graphics layer of said program guide, where the graphics layer selectively overlays and provides emphasis and de-emphasis of said at least one user selectable object in the video layer.

A program guide according to the present invention comprises a video layer and a graphics layer overlaying the video layer at the selected object. The video layer includes various user selectable objects, which are provided with emphasis and deemphasis via graphics layer manipulation. The details of the present invention were discussed at Page 8 of Applicant's March 4, 2004 Response and for sake of brevity are not repeated herein. Schein does not teach, disclose or suggest such a construction. The video layer as identified by the Examiner as element 526 in FIG. 16A (and other similar figures) of Schein is disclosed as a program area of the larger program guide 502 that depicts the currently tuned program and nothing more. That is, there is no video layer with a graphics layer disposed over or overlaying the video layer (at the selected object or otherwise). The displayed imagery envisioned by Schein is not layered imagery comprising video and graphics layers, as discussed in the instant

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application. Rather, Schein utilizes screen regions to display graphics imagery and video imagery. The video imagery shown in Schein represents currently running video content, such as a PPV movie, broadcasted television program, NVOD/VOD content, and the like and is not a layer of the claimed program guide. There is no graphics layer disposed over the alleged video layer of Schein. In sum, the graphics layer of the Applicants' program guide overlays the video layer objects of the program guide, at least where such emphasis and deemphasis are to be provided to such video layer objects.

Furthermore, the Zdepski reference fails to bridge the substantial gap between the Schein reference and the Applicants' invention. In particular, in the Final Office Action, the Examiner indicated that Zdepski was brought in, "to show the actual video layer features" that (as claimed) have a user selectable object. However, Applicant replies that the portions of Zdepski relied upon by the Examiner do not disclose or suggest this feature. FIG. 3 is an exemplary format of an AVI signal which is discussed in totality at Col 6 lines 23-44. Teachings of header and data fields for video and audio portions of the stream and header and code/data fields for the interactive program portions are present, but this does nothing to indicate that the specific organization of layers and visual impact that results as claimed in the subject invention is present or suggested in the reference. FIG. 5 shows a block diagram of an interactive television system, but not the specifics of the program guide as claimed. Col. 2, lines 47-63 merely provides a broad description of an interactive television system including such things and a trigger generator, trigger insertion unit and trigger extractor, but these items do not specifically provide for a video layer having a selectable object as indicated by the Examiner. Additionally, "(t)he trigger, which includes command information to control the loading and/or playing of an interactive program to be associated with the television signal, is generated by trigger generator 14", Col. 4, lines 10-13. As can be seen by such general descriptions, the required disclosure of a video layer and the user selectable object as claimed

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is not seen. Similarly at the Examiner offered Col. 4, lines 47-65, the trigger may take a variety of forms, but offers no examples in this disclosure.

The closest that Zdepski comes to an adequate teaching is by generally indicating exemplary parts of the trigger. Specifically, the trigger is presented as having an Interactive ProgramID field 82 that contains a value to identify a designated program stored by an interactive program source, a Command Code field 84 that contains a value to control the interactive program source and an Authentication Code field 86 that contains a value used as a signature to authenticate. Again, there is no specific disclosure or suggestion as to the execution of these particular fields within the interactive television system. As such, one skilled in the art is left to guess, experiment or otherwise further determine to what extent the trigger is to be executed. For example, is the trigger driven by video, audio, graphics, a combination of all or any, or some other means? Such generalities in the disclosure and the necessity to perform undue experimentation by one skilled in the art cannot support a conclusion of obviousness of the subject invention when attempting to combine Schein with Zdepski.

As such, the Applicants submit that claim 1 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Likewise, independent claim 16 recites similar limitations as recited in independent claim 1. As such, and for at least the same reasons as discussed above, the Applicants submit that independent claim 16 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Furthermore, claims 2-5, 8-15, and 20-33 respectively depend from independent claims 1 and 16 and recite additional limitations thereof. As such, and for at least the same reasons discussed above, the Applicants submit that these dependent claims are also not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, the Applicants respectfully request that the rejections be withdrawn.

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B. Claims 6-7 and 17-19

The Examiner rejected claims 6-7 and 17-19 as being obvious under 35 U.S.C. §103 over Schein in view of Zdepski and Blonstein et al. (U.S. Patent No. 6,016,144, issued January 18, 2000, hereinafter "Blonstein"). The Applicants respectfully traverse the rejection.

Claims 6 and 7 and 17-19 respectively depend from independent claims 1 and 16, and recite additional limitations thereof. As discussed above, the combination of the Schein and Zdepski fails to teach or suggest "the program guide comprising a video layer having at least one user selectable object and a graphics layer overlaying the video layer of said program guide, where the graphics layer selectably provides emphasis and de-emphasis of said at least one user selectable object in video layer of said program guide. Therefore, the combined teachings of Schein and Zdepski fail to teach or suggest the Applicants' invention as a whole.

Furthermore, the Blonstein reference fails to bridge the substantial gap as between the Schein and Zdepski references, and the Applicants' invention. In particular, Blonstein discloses a graphical user interface (GUI) to produce a multilayered graphical presentation. Specifically, the Blonstein arrangement utilizes a graphics processing engine to generate two graphics planes including, in one mode of operation, a transparent layer which exposes graphical buttons produced in a lower graphics layer. However, the Blonstein reference does not teach or suggest a video layer of the program guide, nor does it teach or suggest a video layer in which video objects are emphasized or deemphasized by a graphics layer of the same program guide. Rather, Blonstein is entirely directed towards graphics processing within the context of a graphical user interface, and not to a mixed video and graphics layer processing as claimed by the Applicants in claim 6.

Further, as noted by the Examiner, "Schein et al. does not specifically show the masking and revealing an object." The Applicants agree with this, since such masking and revealing require a masking layer. However, to the

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extent that Schein shows any changing of opacity and emphasis of an object, such object comprises a graphics region object and not a video region object, and certainly not a video layer object. Moreover, Zdepski merely discloses combining data representing an interactive program associated with a television signal (see Zdepski, col. 6, lines 3-15).

Per the Final Office Action, the Examiner offers Blonstein to show only masking and revealing of a lower graphics layer object using a higher graphics layer in a program guide. However, there is no teaching or suggestion of using a video layer, and certainly no teaching or suggestion of masking and revealing video layer objects of the program guide by a graphics layer of the very same program guide in accordance with the subject invention.

Thus, the Schein, Zdepski, and Blonstein arrangements, either singly or in any allowable combination, fail to disclose or suggest a program guide comprising a video layer and a graphics layer overlaying same, or the emphasis/deemphasis (or masking/revealing) of a video layer object using a graphics layer. The references are directed to graphics region (Schein) or layer (Blonstein) processing only and do not teach or suggest the claimed invention. Therefore, the Applicants submit that claims 6-7 and 17-19, as they now stand, fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, the Applicants respectfully request that the rejection be withdrawn.

### **CONCLUSION**

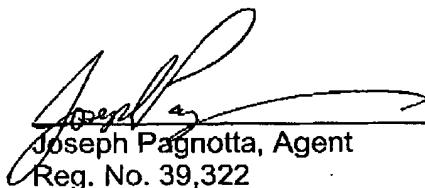
Thus, the Applicants submit that none of the claims presently in the application are obvious under the provisions of 35 U.S.C. §103. Consequently, the Applicants believe that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

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If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Joseph Pagnotta or Eamon J. Wall at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

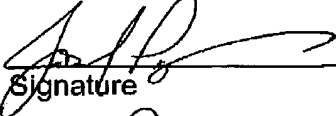
  
Joseph Pagnotta, Agent  
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Dated: August 19, 2004

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Signature

Joseph Pagnotta

Type or print name of person signing certification

August 19, 2004  
Date of Signature